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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/783,642

02/20/2004

Geoffrey N. Holland

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7341

41155 7590 03/25/2008

BRIAN R. WOODWORTH

275 N. FIELD DRIVE

DEPT. NLEG BLDG H-1

LAKE FOREST, IL 60045-2579

EXAMINER

KHUU, HIEN DIEU THI

ART UNIT

PAPER NUMBER

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/783,642	Applicant(s) HOLLAND ET AL.	
	Examiner CINDY H.D.T. KHUU	Art Unit 2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 45-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 45-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/20/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/20/08 has been entered.

Claim Objections

Claim 47 recites the limitation "...wherein a medical care facility..." in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 45- are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimazu et al. (US 2002/0015018) in view of Eggers et al. (US 2002/0169636).

With respect to claim 45, Shimazu teaches of a method for dynamically adjusting the screen brightness of a screen display (monitor panel; fig. 1), comprising the steps of:

providing a screen display (31;fig. 1A-B), the screen display having variable screen brightness (daytime vs. nighttime; paragraph 0036, lines 3-11);

supplying a plurality of screen brightness level settings (figs. 1A and 1B; paragraph 0036, lines 3-11; paragraph 0037, lines 1-18);

determining a current time of day (illuminance detecting means; paragraph 0036, lines 3-5; paragraph 0037, lines 1-3);

automatically selecting one of the plurality of screen brightness level settings to use as an active screen brightness level setting when the current time of day is daytime (fig. 1A; paragraph 0037, lines 1-3; paragraph 0069, lines 1-7);

automatically selecting another of the plurality of screen brightness level settings to use as the active screen brightness level setting when the current time of day is nighttime (fig. 1B; paragraph 0036, lines 3-5; paragraph 0068, lines 1-7); and

operating the screen display using the active screen brightness level setting selected for the current time of day (automatic selection of illuminance levels for the operating display 31; paragraphs 0065-0072).

With respect to claim 46, Shimazu further teaches wherein at least one of the screen brightness level settings is supplied to the *display device* (fig. 1A-B) as part of instructions from *the operator* in communication with the *display device* (paragraph 0057, lines 7).

With respect to claim 47, Shimazu further teaches wherein *the operator* can customize (freely adjusting) based on its preference the at least one of the screen brightness level settings supplied to the *display device* by the *operator* (paragraphs 60 and 86).

With respect to claim 48, Shimazu further teaches wherein the current time of day is determined by the *display device* (figs. 1A-B; paragraphs 0067-0069).

With respect to claim 49, Shimazu further teaches wherein the steps of automatically selecting are performed by the *display device* (figs. 1A-B; paragraph 0065, line 3).

With respect to claim 50, Shimazu further teaches wherein the screen brightness level setting selected when the time of day is nighttime is lower than the screen brightness level setting selected when the time of day is daytime (paragraph 0036; lines 3-9; paragraph 0068, lines 1-8).

However, with respect to claims 45-50, Shimazu does not teach that a method for dynamically adjusting the screen brightness of a screen display operatively associated with a medical pump. Shimazu teaches as applied above, a method for dynamically adjusting the screen brightness of a screen display (10) operatively associated with a construction machine (figs. 1A-B). Even though, the screen display in Shimazu is not associated with a medical device, it would have been obvious to one having ordinary skill in the art at the time of invention to incorporate the exact same screen display in a medical device. Eggers teaches of a method wherein the medical device output includes a visual display on a display screen (54, paragraph 0024). Therefore, it is inherent in the art that visual display screen has adjustable brightness modes for the purpose of nighttime versus daytime operating (Shimazu, paragraphs 0036-0037).

Response to Arguments

Applicant's arguments with respect to claims 45-50 have been considered but are moot in view of the new ground(s) of rejection.

Fax/Telephone Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cindy D. Khuu whose telephone number is (571) 272-8585. The examiner can normally be reached on M-F, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Art Unit: 2863

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chk/
3/7/2008

/John E Barlow Jr./
Supervisory Patent Examiner, Art Unit 2863